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INDIANA UTILITY REGULATORY COMMISSION
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**PETITION OF WHITING CLEAN ENERGY
INC., ENERGYUSA-TPC CORP., and
NORTHERN INDIANA PUBLIC SERVICE
COMPANY FOR AUTHORIZATION FOR
WHITING CLEAN ENERGY TO SELL
ELECTRIC POWER TO ENERGYUSA-TPC
CORP. AND NORTHERN INDIANA PUBLIC
SERVICE COMPANY TO PURCHASE THAT
ELECTRIC POWER FROM ENERGYUSA-TPC
CORP.**

FILED

MAY 13 2005

**INDIANA UTILITY
REGULATORY COMMISSION**

CAUSE NO. 42824

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On April 11, 2005, Whiting Clean Energy, Inc., ("Clean Energy"), Energy USA-TPC Corp., ("Energy USA") and Northern Indiana Public Service Company ("NIPSCO") each a subsidiary of NiSource, Inc., (and collectively referred to as the "Petitioners") filed a Petition in this Cause. On April 19, 2005, NIPSCO filed a *Verified Motion for Expedited Hearing*, ("Verified Motion") in this Cause. In its Verified Motion, NIPSCO requested that the Commission publish notice of an expedited hearing to be convened in mid-May to address NIPSCO's immediate need for regulation resources for purposes of complying with NERC standards. NIPSCO also requested that an attorney's conference be convened by the Commission as soon as practicable to discuss procedural matters related to the requested expedited hearing. NIPSCO also requested in its Verified Motion that the Commission issue an interim order as soon as possible after the expedited hearing authorizing, on a temporary basis until further evidentiary hearings can be convened, the interim relief requested by the Petitioners in this Cause. Verified Motion at ¶ 9.

The Presiding Officers, while not ruling on the Verified Motion, set this matter for Evidentiary Hearing on May 23, 2005. The Presiding Administrative Law Judge subsequently contacted NIPSCO's counsel and advised him that if the parties filed an agreed upon procedural schedule, the Evidentiary Hearing in this matter would be conducted on that date. Otherwise, the date would be utilized as a Prehearing Conference to establish a procedural schedule in this matter. On April 28, 2005, the Petitioners prefiled testimony in support of the interim relief requested in the Verified Motion.

On May 10, 2005, the Petitioners filed their *Motion for Approval of Proposed Procedural Schedule* ("Motion"). In their Motion, the Petitioners indicate, *inter alia*, that Petitioners' counsel has discussed a procedural schedule for this Cause with counsel for the Office of Utility Consumer Counselor ("OUCC") and that they had reached an agreement on a proposed procedural schedule. These two parties further agreed that at the conclusion of the hearing on expedited relief on May 23, 2005, a Prehearing Conference should be conducted to establish a procedural schedule for all parties to prefile additional evidence to be presented at a future hearing, prior to issuance of a final Commission Order. Motion at 2. The Petitioners also indicated in their Motion that Petitioners' counsel contacted counsel for the prospective intervenor in this Cause, the LaPorte County Board of Commissioners ("LaPorte County").¹ According to the Motion, LaPorte County does not oppose the procedural schedule proposed by NIPSCO to address NIPSCO's request for interim relief. However, LaPorte County does oppose the relief requested by NIPSCO in its Petition in this Cause, interim or otherwise, and expressly reserves its right to oppose and challenge NIPSCO's claim for expedited, interim relief. *Id.*

Based on the language contained in the Motion it is apparent that the parties to this proceeding have reached consensus on a proposal that allows the Evidentiary Hearing scheduled for May 23, 2005, to be utilized to address the interim relief requested by NIPSCO, while preserving the Intervenors right to oppose or challenge NIPSCO's claim for expedited interim relief either at the May 23, 2005, Evidentiary Hearing, or at a subsequent hearing prior to the issuance of a final order in this Cause.

Therefore, the Presiding Officers, having reviewed the Motion and being duly advised in the premises, hereby approve the following procedural schedule in this matter:

1. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission the prepared testimony and exhibits constituting their respective cases-in-chief on the interim relief requested by NIPSCO or before May 13, 2005. Copies of same should be served upon all parties of record.

2. **Petitioners Rebuttal Prefiling.** The Petitioner should prefile with the Commission its prepared rebuttal testimony on the interim relief requested by NIPSCO or before May 18, 2005. Copies of same should be served upon all parties of record.

3. **Evidentiary Hearing on the Parties' Cases-In-Chief.** The cases-in-chief of the Petitioner, Public and any Intervenors should be presented in an Evidentiary Hearing on May 23, 2005 at 1:30 p.m. EST in Room E306 of the Indiana Government Center South, Indianapolis, Indiana. At such time, the direct and rebuttal evidence (limited to the interim relief requested by NIPSCO) of the respective parties should be presented and their respective witnesses examined. Following the presentation of testimony regarding NIPSCO's request for interim relief, the parties should present a proposed procedural schedule for the presentation and consideration of all issues in this matter prior to the issuance of a final order that would replace any Interim Order issued in this Cause. If the parties reach settlement on the interim relief requested by NIPSCO, the agreement should be submitted to the Commission five (5) business days prior to the Evidentiary Hearing.

¹ The *Petition to Intervene* filed by the LaPorte County Board of Commissioners was granted by the Presiding Officers in a Docket Entry issued on May 12, 2005.


4. **Discovery.** Discovery is available for all parties and should be conducted on an informal basis. Due to the expedited nature of this proceeding any response or objection to a discovery request should be made within three (3) calendar days of the receipt of such request.

5. **Prefiling of Workpapers.** When prefiling technical evidence with the Commission, each party should concurrently file copies of the work papers used to produce that evidence. Copies of same should also be provided to any other party requesting such in writing. When submitting workpapers to the Commission, two (2) copies of each document should be filed with the Secretary of the Commission.

6. **Number of Copies/Corrections.** With the exception of work papers, the parties should file with the Commission an original and five (5) copies of all prefiled testimony and exhibits. Any corrections to prefiled testimony should be made in writing as soon as possible after discovery of the need to make such corrections. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper.

7. **Intervenors.** Any party permitted to become an Intervenor in this Cause should be bound by the record as it stands at the time its Petition to Intervene is granted, pursuant to 170 IAC 1-1.1-11.

IT IS SO ORDERED.



David E. Ziegner, Commissioner



Scott R. Storms, Chief Administrative Law Judge

5-13-05

Date